

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 145

SENATE BILL 1455

AN ACT

AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 104, SECTION 2; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 104, SECTION 1; AMENDING LAWS 2004, CHAPTER 293, SECTION 5; AMENDING LAWS 2005, CHAPTER 104, SECTION 7; RELATING TO LOW SULFUR DIESEL FUEL; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-2083, Arizona Revised Statutes, as amended by
3 Laws 2002, chapter 104, section 2, is amended to read:

4 41-2083. Standards for motor fuel; exceptions

5 A. Except as provided in subsections C, D, E, F, G, K, L, M and N of
6 this section, a retail seller or fleet owner shall not store, sell or expose
7 or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous
8 fuel or lubricating oil, lubricant, mixtures of lubricants or other similar
9 products if the product fails to meet the standards specified in this section
10 and in the rules adopted by the director.

11 B. A person shall not misrepresent the nature, origination, quality,
12 grade or identity of any product specified in subsection A of this section or
13 represent the nature, origination, quality, grade or identity of such product
14 in any manner calculated or tending to mislead or in any way deceive.

15 C. After consultation with the director of the department of
16 environmental quality, the standards and test methods for motor fuels shall
17 be established by the director of the department of weights and measures by
18 rule.

19 D. Maximum vapor pressure for gasoline that is supplied or sold by any
20 person and that is intended as a final product for the fueling of motor
21 vehicles in a county with a population of one million two hundred thousand or
22 more persons and any portion of a county contained in area A as defined in
23 section 49-541 shall be 9.0 pounds per square inch from and after September
24 30 through March 31 of each year. Fuel used in motor vehicles at a
25 manufacturer's proving ground or a motor vehicle racing event as defined by
26 section 41-2121 is exempt from this subsection.

27 E. From and after September 30 through March 31 of each year a person
28 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
29 pressure/distillation class ten volume per cent evaporated distillation
30 temperature.

31 F. Maximum vapor pressure for gasoline that is supplied or sold by any
32 person and that is intended as a final product for the fueling of motor
33 vehicles in a county with a population of one million two hundred thousand
34 persons or more and any portion of a county contained in area A as defined in
35 section 49-541 shall be 7.0 pounds per square inch from and after May 31
36 through September 30 of each year. Fuel used in motor vehicles at a
37 manufacturer's proving ground or a motor vehicle racing event as defined by
38 section 41-2121 is exempt from this subsection.

39 G. Exclusively for the purposes of transportation conformity and only
40 if the administrator of the United States environmental protection agency
41 fails to approve the applicable plan required pursuant to section 49-406,
42 maximum vapor pressure for gasoline that is supplied or sold by any person
43 and that is intended as a final product for the fueling of motor vehicles in
44 area B as defined in section 49-541 shall be ten pounds per square inch from
45 and after September 30 through March 31 of each year. Fuel used in motor

1 vehicles at a manufacturer's proving ground or a motor vehicle racing event
2 as defined by section 41-2121 is exempt from this subsection.

3 H. Notwithstanding subsections D, F and G of this section, the
4 director of the department of weights and measures in consultation with the
5 director of the department of environmental quality shall approve alternate
6 fuel control measures that are submitted by manufacturers or suppliers of
7 gasoline and that the directors determine will result in either of the
8 following:

9 1. Motor vehicle carbon monoxide emissions that are equal to or less
10 than emissions that result under compliance with subsection D of this section
11 and section 41-2123. In making this determination, the director of the
12 department of weights and measures and the director of the department of
13 environmental quality shall compare the emissions of the alternate fuel
14 control measure with the emissions of a fuel with a maximum vapor pressure
15 standard as prescribed by this section and with the minimum oxygen content or
16 percentage by volume of ethanol as prescribed by section 41-2123.

17 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
18 or less than the emissions that result under compliance with subsection F of
19 this section. In making this determination, the director of the department
20 of weights and measures and the director of the department of environmental
21 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
22 the alternate fuel control measure with the motor vehicle non-methane
23 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
24 standard as prescribed by subsection F of this section.

25 I. Any alternate fuel control measures that are approved shall not
26 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
27 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
28 subsection H of this section and this subsection may be used by any
29 manufacturer or supplier of gasoline unless the approval is rescinded more
30 than one hundred eighty days before the first day of a gasoline control
31 period. Manufacturers and suppliers who use an approved alternate fuel
32 control measure shall annually submit a compliance plan to the director of
33 the department of weights and measures no later than sixty days before the
34 first day of a gasoline control period.

35 J. A person shall not sell or offer or expose for sale diesel fuel
36 grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

37 1. FOR LOW SULFUR DIESEL FUEL, five hundred parts per million BY
38 WEIGHT for use in area A as defined in section 49-541.

39 2. FOR ULTRA LOW SULFUR DIESEL FUEL, THE AMOUNT THAT CONFORMS WITH 40
40 CODE OF FEDERAL REGULATIONS SECTION 80.520(a)(1).

41 K. A person shall not sell or offer or expose for sale biodiesel that
42 is not tested or does not meet the specifications established by ASTM D6751
43 or any blend of biodiesel and diesel fuel that is not tested or does not meet
44 the specifications established by ASTM D975 and that contains sulfur in

1 excess of five hundred parts per million for use in area A as defined in
2 section 49-541.

3 L. A person that blends biodiesel that is intended as a final product
4 for the fueling of motor vehicles shall report to the director by the
5 fifteenth day of each month the quantity and quality of biodiesel shipped to
6 or produced in this state during the preceding month. A person who supplies
7 biodiesel subject to this subsection shall report the following by batch:

8 1. The percentage of biodiesel in a final blend.

9 2. The volume of the finished product.

10 3. For neat biodiesel, the results of analysis for those parameters
11 established by ASTM D6751.

12 4. For biodiesel blended with any diesel fuel, the results of the
13 analysis of the following motor fuel parameters as established by ASTM D975:

14 (a) Sulfur content.

15 (b) Aromatic hydrocarbon content.

16 (c) Cetane number.

17 (d) Specific gravity.

18 (e) American petroleum institute gravity.

19 (f) The temperatures at which ten per cent, fifty per cent and ninety
20 per cent of the diesel fuel boiled off during distillation.

21 M. The report required by subsection L of this section shall be on a
22 form prescribed by the director and shall contain a certification of
23 truthfulness and accuracy of the data submitted and a statement of the
24 supplier's consent permitting the department or its authorized agent to
25 collect samples and access records as provided in rules adopted by the
26 department. A corporate officer who is responsible for operations at the
27 facility that produces or ships the final product shall sign the report.

28 N. A person shall label dispensers at which biodiesel is dispensed in
29 such a manner as to notify other persons of the volume percentage of
30 biodiesel in the finished product AND THAT CONFORMS WITH 40 CODE OF FEDERAL
31 REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE
32 CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

33 O. A PERSON SHALL LABEL EACH DISPENSER AT WHICH ULTRA LOW SULFUR
34 DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL
35 REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE
36 CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

37 P. A PERSON SHALL LABEL EACH DISPENSER AT WHICH LOW SULFUR DIESEL FUEL
38 IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS
39 SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF
40 THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

41 Q. IF ANY PERSON TRANSFERS CUSTODY OR TITLE OF A DIESEL FUEL OR
42 DISTILLATE, EXCEPT IF THE DIESEL FUEL IS DISPENSED INTO A MOTOR VEHICLE OR
43 NONROAD, LOCOMOTIVE OR MARINE EQUIPMENT, THE TRANSFEROR SHALL PROVIDE TO THE
44 TRANSFEREE PRODUCT TRANSFER DOCUMENTS THAT CONFORM WITH 40 CODE OF FEDERAL
45 REGULATIONS SECTION 80.590.

1 R. IF THE TRANSFER OF A MOTOR FUEL IS FROM A TERMINAL, STORAGE
2 FACILITY, OR TRANSMIX FACILITY, THE PRODUCT TRANSFER DOCUMENTS SHALL CONTAIN
3 THE INFORMATION PRESCRIBED IN SUBSECTION Q OF THIS SECTION AS WELL AS THE
4 NAME AND ADDRESS OF THE FINAL DESTINATION FOR THE SHIPMENT, AS PRESCRIBED BY
5 DEPARTMENT RULE, AND MUST ACCOMPANY THE SHIPMENT TO ITS FINAL DESTINATION.

6 Sec. 2. Section 41-2083, Arizona Revised Statutes, as amended by Laws
7 2005, chapter 104, section 1, is amended to read:

8 41-2083. Standards for motor fuel; exceptions

9 A. Except as provided in subsections C, D, E, F, G, K, L, M and N of
10 this section, a retail seller or fleet owner shall not store, sell or expose
11 or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous
12 fuel or lubricating oil, lubricant, mixtures of lubricants or other similar
13 products if the product fails to meet the standards specified in this section
14 and in the rules adopted by the director.

15 B. A person shall not misrepresent the nature, origination, quality,
16 grade or identity of any product specified in subsection A of this section or
17 represent the nature, origination, quality, grade or identity of such product
18 in any manner calculated or tending to mislead or in any way deceive.

19 C. After consultation with the director of the department of
20 environmental quality, the standards and test methods for motor fuels shall
21 be established by the director of the department of weights and measures by
22 rule.

23 D. Maximum vapor pressure for gasoline that is supplied or sold by any
24 person and that is intended as a final product for the fueling of motor
25 vehicles in a county with a population of one million two hundred thousand or
26 more persons and any portion of a county contained in area A as defined in
27 section 49-541 shall be 9.0 pounds per square inch from and after September
28 30 through January 31 of each year. Fuel used in motor vehicles at a
29 manufacturer's proving ground or a motor vehicle racing event as defined by
30 section 41-2121 is exempt from this subsection.

31 E. From and after September 30 through March 31 of each year a person
32 shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor
33 pressure/distillation class ten volume per cent evaporated distillation
34 temperature.

35 F. Maximum vapor pressure for gasoline that is supplied or sold by any
36 person and that is intended as a final product for the fueling of motor
37 vehicles in a county with a population of one million two hundred thousand
38 persons or more and any portion of a county contained in area A as defined in
39 section 49-541 shall be 7.0 pounds per square inch from and after May 31
40 through September 30 of each year. Fuel used in motor vehicles at a
41 manufacturer's proving ground or a motor vehicle racing event as defined by
42 section 41-2121 is exempt from this subsection.

43 G. Exclusively for the purposes of transportation conformity and only
44 if the administrator of the United States environmental protection agency
45 fails to approve the applicable plan required pursuant to section 49-406,

1 maximum vapor pressure for gasoline that is supplied or sold by any person
2 and that is intended as a final product for the fueling of motor vehicles in
3 area B as defined in section 49-541 shall be ten pounds per square inch from
4 and after September 30 through March 31 of each year. Fuel used in motor
5 vehicles at a manufacturer's proving ground or a motor vehicle racing event
6 as defined by section 41-2121 is exempt from this subsection.

7 H. Notwithstanding subsections D, F and G of this section, the
8 director of the department of weights and measures in consultation with the
9 director of the department of environmental quality shall approve alternate
10 fuel control measures that are submitted by manufacturers or suppliers of
11 gasoline and that the directors determine will result in either of the
12 following:

13 1. Motor vehicle carbon monoxide emissions that are equal to or less
14 than emissions that result under compliance with subsection D of this section
15 and section 41-2123. In making this determination, the director of the
16 department of weights and measures and the director of the department of
17 environmental quality shall compare the emissions of the alternate fuel
18 control measure with the emissions of a fuel with a maximum vapor pressure
19 standard as prescribed by this section and with the minimum oxygen content or
20 percentage by volume of ethanol as prescribed by section 41-2123.

21 2. Motor vehicle non-methane hydrocarbon emissions that are equal to
22 or less than the emissions that result under compliance with subsection F of
23 this section. In making this determination, the director of the department
24 of weights and measures and the director of the department of environmental
25 quality shall compare the motor vehicle non-methane hydrocarbon emissions of
26 the alternate fuel control measure with the motor vehicle non-methane
27 hydrocarbon emissions of a fuel that complies with the maximum vapor pressure
28 standard as prescribed by subsection F of this section.

29 I. Any alternate fuel control measures that are approved shall not
30 increase emissions of non-methane hydrocarbons, particulates, carbon monoxide
31 or oxides of nitrogen. Alternate fuel control measures approved pursuant to
32 subsection H of this section and this subsection may be used by any
33 manufacturer or supplier of gasoline unless the approval is rescinded more
34 than one hundred eighty days before the first day of a gasoline control
35 period. Manufacturers and suppliers who use an approved alternate fuel
36 control measure shall annually submit a compliance plan to the director of
37 the department of weights and measures no later than sixty days before the
38 first day of a gasoline control period.

39 J. A person shall not sell or offer or expose for sale diesel fuel
40 grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of:

41 1. FOR LOW SULFUR DIESEL FUEL, five hundred parts per million BY
42 WEIGHT for use in area A as defined in section 49-541.

43 2. FOR ULTRA LOW SULFUR DIESEL FUEL, THE AMOUNT THAT CONFORMS WITH 40
44 CODE OF FEDERAL REGULATIONS SECTION 80.520(a)(1).

1 K. A person shall not sell or offer or expose for sale biodiesel that
2 is not tested or does not meet the specifications established by ASTM D6751
3 or any blend of biodiesel and diesel fuel that is not tested or does not meet
4 the specifications established by ASTM D975 and that contains sulfur in
5 excess of five hundred parts per million for use in area A as defined in
6 section 49-541.

7 L. A person who blends biodiesel that is intended as a final product
8 for the fueling of motor vehicles shall report to the director by the
9 fifteenth day of each month the quantity and quality of biodiesel shipped to
10 or produced in this state during the preceding month. A person who supplies
11 biodiesel subject to this subsection shall report the following by batch:

- 12 1. The percentage of biodiesel in a final blend.
- 13 2. The volume of the finished product.
- 14 3. For neat biodiesel, the results of analysis for those parameters
15 established by ASTM D6751.
- 16 4. For biodiesel blended with any diesel fuel, the results of the
17 analysis of the following motor fuel parameters as established by ASTM D975:
 - 18 (a) Sulfur content.
 - 19 (b) Aromatic hydrocarbon content.
 - 20 (c) Cetane number.
 - 21 (d) Specific gravity.
 - 22 (e) American petroleum institute gravity.
 - 23 (f) The temperatures at which ten per cent, fifty per cent and ninety
24 per cent of the diesel fuel boiled off during distillation.

25 M. The report required by subsection L of this section shall be on a
26 form prescribed by the director and shall contain a certification of
27 truthfulness and accuracy of the data submitted and a statement of the
28 supplier's consent permitting the department or its authorized agent to
29 collect samples and access records as provided in rules adopted by the
30 department. A corporate officer who is responsible for operations at the
31 facility that produces or ships the final product shall sign the report.

32 N. A person shall label dispensers at which biodiesel is dispensed in
33 such a manner as to notify other persons of the volume percentage of
34 biodiesel in the finished product AND THAT CONFORMS WITH 40 CODE OF FEDERAL
35 REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE
36 CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

37 O. A PERSON SHALL LABEL EACH DISPENSER AT WHICH ULTRA LOW SULFUR
38 DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL
39 REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE
40 CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

41 P. A PERSON SHALL LABEL EACH DISPENSER AT WHICH LOW SULFUR DIESEL FUEL
42 IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS
43 SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF
44 THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

1 Q. IF ANY PERSON TRANSFERS CUSTODY OR TITLE OF A DIESEL FUEL OR
2 DISTILLATE, EXCEPT IF THE DIESEL FUEL IS DISPENSED INTO A MOTOR VEHICLE OR
3 NONROAD, LOCOMOTIVE OR MARINE EQUIPMENT, THE TRANSFEROR SHALL PROVIDE TO THE
4 TRANSFEREE PRODUCT TRANSFER DOCUMENTS THAT CONFORM WITH 40 CODE OF FEDERAL
5 REGULATIONS SECTION 80.590.

6 R. IF THE TRANSFER OF A MOTOR FUEL IS FROM A TERMINAL, STORAGE
7 FACILITY, OR TRANSMIX FACILITY, THE PRODUCT TRANSFER DOCUMENTS SHALL CONTAIN
8 THE INFORMATION PRESCRIBED IN SUBSECTION Q OF THIS SECTION AS WELL AS THE
9 NAME AND ADDRESS OF THE FINAL DESTINATION FOR THE SHIPMENT, AS PRESCRIBED BY
10 DEPARTMENT RULE, AND MUST ACCOMPANY THE SHIPMENT TO ITS FINAL DESTINATION.

11 Sec. 3. Laws 2004, chapter 293, section 5 is amended to read:

12 Sec. 5. Conditional enactment; notice

13 A. Section 41-2124, Arizona Revised Statutes, as amended by LAWS 2004,
14 CHAPTER 293, section 1 ~~of this act~~, is not effective unless on or before
15 November 1, 2007 2009 the administrator of the United States environmental
16 protection agency approves a revision to the state implementation plan as
17 defined in section 49-401.01, Arizona Revised Statutes, that incorporates the
18 changes contained in LAWS 2004, CHAPTER 293, section 1 ~~of this act~~.

19 B. Section 41-2124, Arizona Revised Statutes, as amended by LAWS 2004,
20 CHAPTER 293, section 2 ~~of this act~~, is not effective unless on or before
21 November 1, 2007 2009 the administrator of the United States environmental
22 protection agency approves a revision to the state implementation plan as
23 defined in section 49-401.01, Arizona Revised Statutes, that incorporates the
24 changes contained in LAWS 2004, CHAPTER 293, section 2 ~~of this act~~.

25 C. The director of the department of environmental quality shall
26 promptly provide written notice to the director of the Arizona legislative
27 council of the following:

28 1. The date of approval of a revision to the state implementation plan
29 that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 1
30 ~~of this act~~ or the failure to incorporate those changes on or before November
31 1, 2007 2009.

32 2. The date of approval of a revision to the state implementation plan
33 that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 2
34 ~~of this act~~ or the failure to incorporate those changes on or before November
35 1, 2007 2009.

36 Sec. 4. Laws 2005, chapter 104, section 7 is amended to read:

37 Sec. 7. Conditional enactment

38 A. Section 41-2083, Arizona Revised Statutes, as amended by LAWS 2005,
39 CHAPTER 104, section 1 ~~of this act~~ and section 41-2123, Arizona Revised
40 Statutes, as amended by LAWS 2005, CHAPTER 104, section 2 ~~of this act~~, are
41 not effective unless on or before November 1, 2007 the administrator of the
42 United States environmental protection agency approves a revision to the
43 state implementation plan as defined in section 49-401.01, Arizona Revised
44 Statutes, that incorporates the changes contained in LAWS 2005, CHAPTER 104,
45 sections 1 and 2 ~~of this act~~.

1 B. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004,
2 chapter 293, section 1 and LAWS 2005, CHAPTER 104, section 4 ~~of this act~~, is
3 not effective unless only the condition prescribed in Laws 2004, chapter 293,
4 section 5, subsection A, AS AMENDED BY SECTION 3 OF THIS ACT, is met and
5 notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection
6 C, AS AMENDED BY SECTION 3 OF THIS ACT.

7 C. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004,
8 chapter 293, section 2 and LAWS 2005, CHAPTER 104, section 5 ~~of this act~~, is
9 not effective unless only the condition prescribed in Laws 2004, chapter 293,
10 section 5, subsection B, AS AMENDED BY SECTION 3 OF THIS ACT, is met and
11 notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection
12 C, AS AMENDED BY SECTION 3 OF THIS ACT.

13 D. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004,
14 chapter 293, sections 1 and 2 and LAWS 2005, CHAPTER 104, section 6 ~~of this~~
15 ~~act~~, is not effective unless the conditions prescribed in Laws 2004, chapter
16 293, section 5, subsections A and B, AS AMENDED BY SECTION 3 OF THIS ACT,
17 are met and notice is provided pursuant to Laws 2004, chapter 293, section 5,
18 subsection C, AS AMENDED BY SECTION 3 OF THIS ACT.

19 Sec. 5. Conditional enactment

20 Section 41-2083, Arizona Revised Statutes, as amended by Laws 2005,
21 chapter 104, section 1 and section 2 of this act, is effective as prescribed
22 in Laws 2005, chapter 104, section 7, as amended by this act.

APPROVED BY THE GOVERNOR APRIL 27, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2007.